



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 16, 1998

Ms. Joni M. Vollman
Assistant General Counsel
Office of the Harris County District Attorney
District Attorney's Building
201 Fannin, Suite 200
Houston, Texas 77002-1901

OR98-0164

Dear Ms. Vollman:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 112386.

The Harris County District Attorney (the "district attorney") received a request for two specified files. You state that certain documents will be disclosed to the requestor. You claim, however, that the remaining requested information is excepted from disclosure under sections 552.101, 552.108, and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 of the Government Code provides in part:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [public disclosure] if . . . (3) it is information that: (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

You specifically quote the pertinent language from the provision cited above in arguing that the records in Exhibit "A" constitute the "work product" of the prosecutors for

the district attorney. We have reviewed the documents in Exhibit "A." We find that these records deal with the prosecution of crime and reflect the mental impressions or legal reasoning of an attorney representing the state. See Gov't Code § 552.108(a)(3)(B). You may, therefore, withhold from disclosure the documents contained in Exhibit "A" under section 552.108. We assume that you have released "front page" information in accordance with *Houston Chronicle*.¹ If not, you must release basic information from the D.A. Intake Management System sheets.

Section 552.101 excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. You claim that the records submitted in Exhibit "B" are made confidential by state and federal law. Federal regulations prohibit the release of criminal history report information ("CHRI") maintained in state and local CHRI systems to the general public. See 28 C.F.R. § 20.21(c)(1) ("Use of criminal history record information disseminated to noncriminal justice agencies shall be limited to the purpose for which it was given."), (2) ("No agency or individual shall confirm the existence or nonexistence of criminal history record information to any person or agency that would not be eligible to receive the information itself."). Section 411.083 provides that any CHRI maintained by the Department of Public Safety ("DPS") is confidential. Gov't Code § 411.083(a). Similarly, CHRI obtained from the DPS pursuant to statute is also confidential and may only be disclosed in very limited instances. *Id.* § 411.084; see also *id.* § 411.087 (restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). Therefore, to the extent that Exhibit "B" contains CHRI obtained from DPS or another criminal justice agency, you must not release such information to the requestor.

Finally, you assert that section 552.117 of the Government Code excepts from disclosure some of the information contained in Exhibit "C." Section 552.117 provides for the confidentiality of the home addresses, home telephone numbers, and social security numbers of peace officers. Section 552.117 also protects from disclosure information that reveals that the individual has family members. We thus agree that you must withhold the home telephone numbers and home addresses of peace officers from disclosure. In Open Records Decision No. 506 (1988) at 5, this office stated that one purpose of section 552.117 is to protect public officials and employees from being harassed while at home. We therefore agree that pager numbers of peace officers may be withheld from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

¹*Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976).

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/glg

Ref.: ID# 112386

Enclosures: Submitted documents

cc: Ms. Cynthia Russell Henley
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(w/o enclosures)